

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES

ISSUED BY STATE BOARD OF ACCOUNTS

September 1995

REVENUE BOND ORDINANCES - UTILITY BANK ACCOUNTS- REPORTS TO BONDHOLDERS

When drafting a revenue bond ordinance for a city or town utility bond issue, we recommend such ordinance not require the establishment of separate bank accounts for each utility fund. The interests of bondholders are adequately protected and the handling of funds would be less complicated if the revenue bond ordinance would provide that funds of each municipal utility be deposited in only one depository account separate from all other city or town funds.

Some revenue bond ordinances provide that the Construction Fund is to be deposited in a separate depository account and all other funds of the utility are to be deposited in another depository account separate from all other funds of the city or town. We would not object to such an arrangement since the Construction Fund is usually cleared out within a few months.

One of the covenants often found in contracts between a city or town and the holders of the bonds requires that the officials will prepare and furnish to the original purchasers of the bonds and to any subsequent holder of the bonds, upon written request, complete financial statements of the utility for the proceeding fiscal year. These statements must be certified by the clerk-treasurer or controller. Copies of such statements and reports should be kept on file in the office of the clerk-treasurer or controller.

BUILDING PERMIT FEES

Since there is no statutory requirement that building permit fees be placed in a separate fund, we believe that such fees should be receipted to the General Fund and disbursements for compensation of building inspectors, the cost of building permit forms and other such expenses should be paid from the General Fund and charged against appropriations properly made therefore.

CIGARETTE TAX DISTRIBUTIONS **OAG NO. 34 OF 1965**

A city or town coming into existence subsequent to the last preceding United States decennial census is entitled to share in the cigarette tax distribution.

A city or town existing at the time of the last preceding decennial census continues to share in the distributions from the Cigarette Tax Fund on this basis and not on the basis of a subsequent Federal special census.

BONDS - REGISTERED

IC 5-1-15 authorizes cities and towns to issue "bonds, notes, evidences of indebtedness, or other written obligations" in fully registered or book entry form.

The entity may employ any bank or trust company as paying agent or registrar, co-registrar, or depository institution. The bank or trust company need not be a depository bank under IC 5-13, and need not be located within the State of Indiana.

Notwithstanding any other provision of law, registrars or registration books or transfer records for bonds, notes, evidences of indebtedness, or other written obligations of any entity are not public records, but are only for the use of the entity, any trustee, fiduciary, paying agent, registrar, co-registrar, or transfer agent. A trust department of a bank having possession of these records shall not disclose them to a bond department, commercial department, subsidiary of the bank, or a subsidiary of the parent corporation of the bank. [IC 5-1-15-5]

Registrars of bond issues shall keep a register of ownership of bonds. [IC 5-1-15-6]

In an effort to facilitate accounting procedures, the State Board of Accounts has issued the following instructions:

- (1) If a bank, trust company, or other financial institution has been employed as a paying agent or registrar, a properly certified listing of bondholders from the paying agent or registrar shall serve as a mailing list for the fiscal officer. There is no requirement for each individual bondholder to file a claim.
- (2) The mailing of the funds for bonds and coupons coming due must be mailed in such a manner to ensure receipt by the bondholder by the due date specified. Personnel of financial institutions state they usually make such mailing by first class mail one to three business days in advance of the due date. They do not mail by certified or registered mail due to costs involved. We suggest you review this with your city or town attorney.
- (3) Since the paying agency or the registrar shall keep a register of ownership of bonds and all bonds and coupons shall be paid when becoming due, we see no reason for the municipality to duplicate those same records maintained by the paying agent or registrar by keeping a bond register. There should be no unpaid outstanding matured bonds or coupons.

BONDS - REGISTERED (Continued)

- (4) In all instances when employing a bank, trust company, or other financial institutions, be sure to protect the municipality from any liability arising due to any possible errors relating to names and addresses of current bondholders. This protection may be obtained by the financial institution furnishing a bond or insurance in favor of the municipality.

As stated previously, please consult with your city or town attorney with your questions regarding procedures for registered bonds.

MOTOR VEHICLE HIGHWAY FUNDS
OAG NO. 27 OF 1965

Cities and towns may construct, purchase and lease buildings with funds distributed to them from the Motor Vehicle Highway account, to be used exclusively for purposes which are incidental to the purposes expressly stated in IC 8-14-1-5.

CUMULATIVE CAPITAL IMPROVEMENT FUND
OAG NO. 32 OF 1965

The term "capital improvement", as used and defined in the Cigarette Tax Act, does not contemplate the purchase of "major movable equipment" or any other personal property, and the use of such fund for such purposes would be contrary to the express restrictive authority of the act.

INVESTMENTS
General Law

The general law applicable to the investment of funds is IC 5-13-9. This statute authorizes investments in either:

- (1) Any security backed by the full faith and credit of the United State Treasury or fully guaranteed by the United States; and issued by the United States Treasury; a federal agency; or federal instrumentality [IC 5-13-9-2(a)]
- (2) Deposit accounts issued or offered by a designated depository.
[IC 5-13-9-3(a)(1)] (See definition below.)
- (3) Agreements commonly known as a repurchase or resale agreements with depositories designated by the state board of finance as depositories for state investments. [IC 5-13-9-3(a)(2)]

INVESTMENTS
(Continued)

General Law (Continued)

- (4) Invest in obligations issued assumed or guaranteed by the International Bank for Reconstruction and Redevelopment or the African Development Bank.

"Deposit accounts" means any of the following:

- (1) Any account subject to withdrawal by negotiable orders of withdrawal, unlimited as to amount or number, and without penalty, including NOW accounts.
- (2) Passbook savings accounts.
- (3) Certificates of deposit.
- (4) Money Market deposit accounts.
- (5) Any interest-bearing account that is authorized to be set up and offered by a financial institution in the course of its respective business. [IC 5-13-4-7]

Please keep in mind "financial institution" means any of the following:

- (1) A bank, trust company, or mutual savings bank incorporated under Indiana law.
- (2) A national banking association with its principal office in Indiana.
- (3) A building and loan association operating as a deposit association incorporated under Indiana Law.
- (4) A federally chartered savings and loan association with its principal office or a branch in Indiana.
- (5) A federally chartered savings bank with its principal office or a branch in Indiana.
- (6) A federally insured or privately insured state chartered credit union having assets of three million dollars (\$3,000,000) or more. [IC 5-13-4-10]

Authority for Investments

Each fiscal officer of a political subdivision or other officer of a governmental entity is authorized to make investments under the guidelines established by the fiscal body of the subdivision and in accordance with IC 5-13-9.

INVESTMENTS
(Continued)

United States Government Securities

There is no listing of qualified United States Treasury bonds, notes, and bills contained in present statutes. IC 5-13-9-2(a) states that public funds can be invested "in securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States; and issued by the United States Treasury; a federal agency; or a federal instrumentality."

Safekeeping Receipts for United States Government Securities

The fiscal officer is authorized to accept safekeeping receipts from qualified financial institutions. Safekeeping receipts may be received only from:

- (1) A duly designated depository as prescribed in this article, or
- (2) A financial institution located either in or out of Indiana having physical custody of the securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

The State Board of Accounts may rely on safekeeping receipts from any depository or financial institution. [IC 5-13-9-2(e)(f)]

Repurchase and Resale Agreements

Governmental units may enter into what is commonly known as repurchase or resale agreements with depositories designated by the State Board of Finance as depositories for state investments, involving the purchase and guaranteed resale of any interest-bearing obligations issued or fully insured or guaranteed by the United States or any United States governmental agency. The amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by the current market value computed on the day the agreement is effective. [IC 5-13-9-3(a)(2)]

To ensure the ownership of securities acquired upon a repurchase agreement is vested in the governmental unit and to meet the requirements of IC 5-13-9, it has been suggested by an attorney for the Federal Deposit Insurance Corporation that repurchase agreements be so written as to:

- (1) Vest title of securities in the name of the governmental unit;
- (2) Describe the specific securities acquired; and,
- (3) Represent a safekeeping receipt for the securities so acquired.

INVESTMENTS
(Continued)

Interest Rate and Term of Investments

IC 5-13-9-3(b) states investments "...must be in the amounts and for the rates and terms as are agreed upon from time to time by the officer making the investment and the designated depository." IC 5-13-9-2(c) states: "Investments may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase."

Proration of Investments

IC 5-13-9-4 provides:

"(a) Unless the requirements of section 5 (see Note 1) are met, investments in the aggregate deposit accounts of designated depositories, authorized to be made in section 3(a)(1) (See Note 2) of this chapter, shall be made on a prorated basis in the designated depositories in the proportions and subject to the conditions provided under IC 5-13-8-10, subject to the limitations set out in subsections (b) through (d).

(b) The investing officer of any political subdivision making a deposit in any deposit account shall:

(1) make a deposit in a manner consistent with standard accounting procedures described in a protocol filed with and approved by the state board of accounts; or

(2) obtain quotes of the specific rate of interest each designated depository will pay on that account for the period contemplated for the investment. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

(c) Any deposit in a deposit account of a designated depository under this section will be placed in the depository quoting the highest rate of interest. In addition, that investment in any designated depository or depositories shall not be counted in the amount of public funds to be prorated under subsection (a). If more than one (1) depository is entitled to receive the investment, it shall be prorated in accordance with the respective portions to which each is entitled to receive in accordance with their respective assets or deposits as determined by the methods set out in IC 5-13-8-10. That prorating shall be determined by the respective deposits of only those depositories submitting the highest quote.

INVESTMENTS
(Continued)

Proration of Investments (Continued)

However, if more than one (1) designated depository bids the same highest rate but payment of the rate is conditioned on receiving the entire investment, choice of the designated depository to receive the investment shall be made by the investing officer in the following priority:

- (1) To the designated depository determined by the investment officer with regard to amounts received in other situations by the respective designated depositories, if any.
- (2) By lot.
- (d) Subsection (b) does not apply to deposits made in accounts that pay interest and that are subject to withdrawal by check or negotiable orders of withdrawal without limitation as to amount or number and without penalty.
- (e) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated as a depository by the state board of finance."

Note 1. Section 5 means IC 5-13-9-5.

Note 2. Section 3(a)(1) means IC 5-13-9-3(a)(1). This statute authorizes investments in deposit accounts. The definition of deposit accounts will be found in IC 5-13-4-7.

Soliciting Quotations From Depositories Outside the Municipality

IC 5-13-9-5 states:

"(a) This section applies to deposit accounts other than accounts paying interest and subject to withdrawal by check or negotiable orders of withdrawal, unlimited as to amount or number, and without penalty.

(b) The prorata requirements of IC 5-13-8-10 do not apply to investments in the deposit accounts to which this section applies if an ordinance or resolution is passed under subsection (c). Investments in those deposit accounts shall be made in the manner set out in subsections (d) and (e).

INVESTMENTS
(Continued)

Soliciting Quotations From Depositories Outside for Municipality (Continued)

(c) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in a deposit account or accounts to which this section applies of depositories that have been designated by the board of finance of either but have been designated by the state board of finance as a depository for state investments. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(d) With respect to any money to be invested in a deposit account under subsection (c), the investing officer shall solicit quotes for the deposit account from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

(e) Investments in any deposit account to which this section applies shall be placed in the depository quoting the highest rate of interest under subsection (d), as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:

- (1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its board of finance, the investment shall be placed in that depository.
- (2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its board of finance, the investment shall be placed by the investing officer in one (1) of these depositories.
- (3) If none of the highest quoters is a depository designated for the political subdivision by its board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote." (Our Emphasis)

INVESTMENTS
(Continued)

Soliciting Quotations From Depositories Outside for Municipality (Continued)

Please note this is a "may" statute. The legislature is not encouraging or demanding investments be purchased outside the governmental unit. If the outside quotes are higher than those received from local financial institutions, and if the local financial institutions will meet the highest outside quotations, investments still must be purchased from the local institution(s).

Interest Earned From Investments - Crediting

IC 5-13-9-6 lists provisions for crediting interest earned from investing public funds. The following are portions of IC 5-13-9-6 which apply to cities and towns:

- "(a) All interest derived from an investment by a political subdivision or by any other local public officer under the authority granted by section 3 of this chapter shall be deposited, except as otherwise provided by law, in the general fund of the investment authority or in any other fund its governing body designates specifically or by rule, subject to the modifications and limitations in this section.
- (b) Interest from the following investments shall be receipted as follows: (1) Interest from investments of funds of a political subdivision that are traceable to United States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation. (2) Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order.
- (c) Each county treasurer, if authorized by the board of county commissioners, may invest tax collections under this chapter pending distribution of the collections to political subdivisions. These investments may not: (1) exceed the amount available after giving consideration to taxes which may need to be advanced to any political subdivision; or (2) be made in deposit accounts or repurchase agreements, the maturity dates of which are later than the time when the tax collections are required by law to be distributed to political subdivisions.
- (d) Applies to County Funds.
- (e) Applies to State Funds.

INVESTMENTS
(Continued)

Interest Earned From Investments - Crediting (Continued)

- (f) Any political subdivision may apply the interest derived from the investment of the proceeds from bonded indebtedness or local tax levies to the appropriate redemption bond interest or sinking fund for the bonded indebtedness...
- (g) If meter deposits of a municipally owned utility are invested the interest earned on the investment may be applied to and used in the operation or depreciation fund of the municipally owned utility as determined by its governing body.
- (h) Any public depository insurance assessment paid by a depository on any deposit account under IC 5-13-12-5 shall be deducted from the interest otherwise payable on that account.
- (I) Interest from the investment of public funds may not be paid personally or for the benefit of any public officer."

The "governing body" is authorized to place investment interest in whatever fund it wishes with the modifications and limitations listed in the statute. Keep in mind, notwithstanding (f), terms of an existing bond ordinance must be followed. The bond ordinance should be reviewed and its terms and conditions adhered to without exception.

Public Deposit Insurance Fund

IC 5-13-9-7 states: "Investments made in accordance with section 3(a)(1) of this chapter and the interest earned or accrued on them are public funds as the term is defined in IC 5-13-4 and are covered by the insurance fund."

IC 5-13-9-3 (a)(1) authorizes investments in "deposit accounts." The definition of deposit accounts will be found in IC 5-13-4-7. This section states the State Public Deposit Insurance Fund will cover investments in "deposit accounts." This insures the city or town in case a financial institution fails and covers those investments greater than \$100,000 which is the maximum amount insured by federal agencies.

Service Charges

IC 5-13-9-8 states: "Any investing officer that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all

INVESTMENTS
(Continued)

Service Charges (Continued)

customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by section 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository."

Manner of Investing Funds

A city or town has authority to invest its funds in the following manner: (1) by specific fund (1) by grouping specific funds; or (3) from total monies on deposit.

Giving effect to the provisions of the law, as amended, and to Official Opinion No. 6 (1968) of the Attorney General, it is the position of the State Board of Accounts that in the following instances investments must be made from specific funds with the interest on such investments to accrue to the benefit of such funds:

- (1) Where, under the terms of the statute, bequest, endowment, trust or federal, state, or private grant, earnings on investments must accrue to the benefit of the fund from which the investment was purchased.
- (2) Where bonds are issued for any purpose and the proceeds are invested, the interest from the investments must be credited to the fund from which invested, to the Bond and Interest Redemption Fund, or to any other fund where directed by terms of the bond resolution.

After meeting the foregoing requirements, as to investment "by fund," the investment of all other monies on deposit, without identifying the fund or funds invested are permitted.

It should be stressed that, although certain funds must be invested "by fund," this will not preclude investment of any other specific fund, with the interest on such investments to accrue to that fund, if so directed by the appropriate board. Examples of funds, where the laws make no provision for investment, and which may be invested either by fund or from the total monies on deposit include: General Fund, Motor Vehicle Highway Fund, Local Road and Street Fund, and Cumulative Capital Improvement Fund.

INVESTMENTS
(Continued)

Manner of Investing Funds (Continued)

To summarize the foregoing, investments should be made in the following manner:

- (1) By fund, where any statute or the terms of any bequest, federal, state, or private grant, endowment or trust, make provisions for investments, with the interest to accrue to the benefit of such fund.
- (2) By fund, if so determined by the appropriate board.
- (3) From the total of monies on deposit, after giving consideration to (1) and (2) above.

Purchasing Investments

When an investment is made the fiscal officer shall issue a warrant payable to the bank or financial institution from which the investment is purchased. The warrant must show the fund or funds on which it is drawn, if the investment is from a specific fund or funds, or if from "total monies on deposit," this wording shall be entered in lieu of the fund name or names. The warrant should also show the purpose for which it is issued, such as "investment in certificate of deposit" or "investment in United States Government Securities." The warrant shall be countersigned by the fiscal officer, delivered to the financial institution and the certificate of deposit, passbook, securities, or safekeeping receipt for such securities obtained by the fiscal officer. The city or town fiscal officer is official custodian of all such investments.

Renewal of Certificates of Deposit

A certificate of deposit may be renewed for an additional term if authorized by the governing body, without the original certificate of deposit being paid by the depository and a warrant being issued for the purchase of a new certificate of deposit. However, if renewed, the interest due the unit shall be paid to the fiscal officer at each maturity date, so the records will reflect the true financial condition and the amount invested at all times. The interest shall not be added to the original deposit and reinvested by the depository.

In the case of the United States Government Securities the amount received from investments must be receipted into the records and a warrant issued for the purchase of new securities. There is no authority for the "rollover" or reinvestment of securities by a depository; the transactions must be handled through the records of the fiscal officer.

Procedure for Posting of Records at the
Time Investments are Purchased or Sold

At the time investments are purchased, the fiscal officer should enter the full cost of the securities (purchase price plus accrued interest) as a disbursement from the fund or funds from which the investment is made.

INVESTMENTS
(Continued)

Procedure for Posting of Records at the
Time Investments are Purchased or Sold (Continued)

Where an investment is made from "total monies on deposit," the warrant issued will not be posted in the ledger, but a memorandum account should be set up in a separate section of the ledger to which investment transactions will be posted.

When an investment is made from a specific fund, a new fund entitled "Investments _____ Fund" should be set up on the records. The net price (purchase price less accrued interest) should be entered as a receipt to this fund.

The Investment Register, General Form 350, should be used for keeping a record of all investments purchased by the unit.

Interest received on such investments by fund should be entered as a receipt to the fund from which the investment was purchased or to the fund designated by the governing body. Interest received from investment of total monies on deposit should be receipted to the general fund or the fund specified by the governing body.

When an investment by fund are sold, the full amount of such sale should be entered as a receipt to the fund from which the investment was made. The receipt should show separately the principal (purchase price) received and the interest received from the investment. At this time, the net purchase price (purchase price less accrued interest) should also be entered as a disbursement from the "Investment _____ Fund."

When an investment from total monies on deposit is sold the principal (purchase price) will not be posted as a receipt to the ledger but the interest thereon will be posted as a receipt to the general fund or fund designated by governing body. Proper entry shall also be made in the memorandum account, as well as in the Investment Register.

Accounting for Interest Earned on Investments

Where an investment is made by fund, or a group of funds, and is not restricted by a statute or terms of a bequest, endowment, federal, state or private grant, the interest shall be credited to the fund or funds specified by the governing body. In the case of investment of bond proceeds (unless restricted by terms of the bond ordinance which must be followed), the governing body may apply the interest to the bond and interest sinking fund of the bonded indebtedness.

Interest earned on investments of "total monies on deposit" shall be credited to the fund or funds designated by the governing body.

INVESTMENTS
(Continued)

Investment Cash Management System

A governmental unit may contract with a depository for the operation of an investment cash management system under IC 5-13-11. Such a system would provide for the management of the unit's investments by a financial institution which has been designated as a depository.

A contract must be drawn up which would:

- (1) Be in writing;
- (2) Provide for the investment of funds by the depository with the approval of the fiscal officer;
- (3) Provide that the depository keep those records concerning the cash management system as needed for audits by the State Board of Accounts;
- (4) Provide that investments will be made in accordance with IC 5-13-9;
- (5) Not have a term of more than two years;
- (6) Be awarded under the bidding provisions of IC 36-1-9.

If no designated depository whose principal office or branch is located within the political subdivision will provide an investment cash management service, then a contract may be awarded to a financial institution (as defined in IC 5-13-4-10) outside the political subdivision as provided in IC 5-13-8-9(c). The financial institution must qualify as a depository.

The contract may provide for the depository to assess a service charge for its management of the investment cash management system. The service charge may be paid by direct charge to the deposit or other account or in any manner mutually agreed upon by the investing officer and the depository.

The depository must furnish the political subdivision with at least one report each month of transactions. Any interest from an investment should be credited to the investment account of the governmental unit and would become a part of the principal in the account.

BOARD OF FINANCE - ANNUAL MEETING

IC 5-13-7-6 requires each local board of finance to meet annually after the first Monday and on or before the last day of January. At the annual meeting the board of finance shall elect from the board's membership a president. The fiscal officer of a city or town is the secretary of the board of finance. The officers hold office until the officer's successors are elected and qualified.

BOARD OF FINANCE - ANNUAL MEETING
(Continued)

The board of finance shall also receive and review the written report of the investing officer that summarizes the city or town's investments during the previous year. The report must contain the name of each financial institution, governmental agency or instrumentality or other person with whom the city or town invested money during the previous calendar year.

The board of finance is to review overall investment policy of the city or town.

The following suggested format is recommended to be completed and given to the Board of Finance:

REPORT OF INVESTMENTS

FOR THE YEAR 19__

FINANCIAL INSTITUTION/GOVERNMENT <u>AGENCY/OTHER</u>	TYPES OF INVESTMENTS <u>CD'S, GOV'T SECURITIES, ETC.</u>	<u>AMOUNT INVESTED</u> \$

		\$ _____

DEPOSITORY DESIGNATION - ONLY ONE FINANCIAL INSTITUTION
LOCATED IN A CITY OR TOWN

IC 5-13-8-9(f) states that if only one (1) financial institution with a branch or principal office in a city or town is willing to accept public funds, the board of finance for the city or town may:

- (1) treat the financial institution that is located within the city or town as if the financial institution were not located within the city or town; and
- (2) designate one (1) or more financial institution to receive public funds under the requirements of IC 5-13-8-9(c).

Any city or town wishing to follow this section before the next biennial designation of depositories in 1996 should use the procedures outlined in the article that follows on revoking depository commissions.

REVOKING DEPOSITORY COMMISSIONS

A city or town board of finance may determine that a financial institution is ineligible to become a depository and receive public funds of the city or town if the financial institution:

- (1) is unwilling or unable to perform banking services reasonably required by the board of finance, considering the volume of the transactions, that are:
 - (A) related to the public funds deposited in a deposit account described in IC 5-13-4-7(1); and
 - (B) required by the state or political subdivision served by the board of finance to carry out the responsibilities of the state or political subdivision, as determined by the board of finance.
- (2) is unwilling or unable to comply with a state or federal statute, rule, or other regulation the governs the records or handling of public funds of the state or political subdivision served by the board of finance, as determined by the board of finance; or
- (3) is found to be ineligible for any other cause that is adopted in the written rules of the board of finance and is directly related to the safe handling of public funds. (IC 5-13-8-1)

REVOKING DEPOSITORY COMMISSIONS

(Continued)

The local board of finance under which any depository operates may, at any time, revoke the commission of any depository at a meeting called for the purpose of revoking a commission, of which the depository shall have been notified by advance written notice sent by first class or registered mail not less than twenty (20) days before the meeting and at which the depository has the right to be heard. The local board of finance may revoke the commission of any depository:

- (1) that is unwilling or unable to perform banking services reasonably required by the local board of finance, considering the volume of transactions, that are:
 - (A) related to the public funds deposited in a deposit account described in IC 5-13-4-7(1); and
 - (B) required by the political subdivision served by the local board of finance to carry out the responsibilities of the political subdivision, as determined by the local board of finance;
- (2) that is unwilling or unable to comply with a state or federal statute, rule, or other regulation that governs the records or handling of public funds of the political subdivision served by the local board of finance, as determined by the local board of finance;
- (3) that ceases to qualify as a depository under IC 5-13-9, as determined by the local board of finance; or
- (4) for any cause that is adopted in the written rules of the local board of finance and that is directly related to the safe handling of public funds.

Upon revocation, the depository shall immediately render an accounting and make settlement for all public funds deposited with the depository. (IC 5-13-8-7)

DEFERRED COMPENSATION PLANS-PUBLIC EMPLOYEES RETIREMENT FUND

Public Law 66, Acts of 1995, allows cities and towns to contribute amounts before January 1, 1995 and continue or begin to contribute amounts after January 1, 1995, to a nonqualified deferred compensation plan on behalf of eligible employees subject to any limits and provisions under section 457 of the internal revenue code. (IC 5-10-1.1-1)

This public law further provides that it does not prohibit a city or town from establishing and providing before January 1, 1995 and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits to the employees of the city or town if the city or town took action before January 1, 1995, and was not a member of the Public Employees' Retirement Fund (PERF) on January 1, 1995. (IC 5-10.2-2-1)

PAYMENT OF INVOICES OR BILLS BEFORE BOARD MEETING - CITIES

A city council may adopt an ordinance allowing money to be disbursed for lawful city purposes before board allowance. Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the city fiscal officer may make claim payments in advance of board allowance for the following kinds of expenses if the city legislative body has adopted an ordinance allowing such practice:

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond and coupon payments.
- (10) Payroll.
- (11) State, federal, or county taxes.
- (12) Expenses that must be paid because of emergency circumstances.**
- (13) A product or service for which the city legislative body had accepted bid.**

Each payment of expenses must be supported by a fully itemized **invoice or bill and certification by the fiscal officer**. The city legislative body or the city board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense. (IC 36-4-8-14)

PAYMENT OF INVOICES OR BILLS PRIOR TO BOARD MEETINGS - TOWNS

A town council may adopt an ordinance allowing money to be disbursed for lawful town purposes prior to board allowance. Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over allowance of the claim, a town fiscal officer may make claim payments in advance of a board allowance for the following types of expenses if the town legislative body has adopted an ordinance allowing such practice.

- (1) Property or services purchased or leased from:
 - (A) the United States government; or
 - (B) an agency or a political subdivision of the United States government.
- (2) License fees or permit fees.
- (3) Insurance premiums.

PAYMENT OF INVOICES OR BILLS PRIOR TO BOARD MEETINGS - TOWNS

(Continued)

- (4) Utility payments or utility connection charges.
- (5) Federal grant programs if:
 - (A) advance funding is not prohibited; and
 - (B) the contracting party provides sufficient security for the mount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance agreements or service agreements
- (8) Lease agreements or rental agreements.
- (9) Principal and interest payments on bonds.
- (10) Payroll.
- (11) State, federal, or county taxes.
- (12) Expenses that must be paid because of emergency circumstances.**
- (13) Expenses described in an ordinance.**

Each payment of expenses must be supported by a fully itemized **invoice or bill and certification by the fiscal officer**. The town legislative body or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the body's or board's next regular or special meeting following the preapproved payment of the expense. (IC 36-5-4-12)

COMMON COUNCIL - CITY EMPLOYEES

Public Law 315, House Enrolled Act 1144, allows city employees to be candidates for elective office or be appointed to an office and serve in that office if appointed without having to resign. (IC 36-4-4-2)

PAYMENT OF INVOICES OR BILLS - REQUIREMENTS

The fiscal officer of a municipality may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the municipality's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the municipality's legislative body or the board having jurisdiction over allowance of payment of the claim.

The fiscal officer of a municipality shall issue checks or warrants for claims by the municipality that meet all of the requirements of IC 5-11-10-1.6. The fiscal officer does not incur personal liability for disbursements:

- (1) processed in accordance with IC 5-11-10-1.6 and;
- (2) for which funds are appropriated and available.

PAYMENT OF INVOICES OR BILLS - REQUIREMENTS
(Continued)

The certification required by IC 5-11-10-1.6(c)(4) must be on a form prescribed by the state board of accounts. Claim means a bill or an invoice submitted to a municipality for goods or services. (IC 5-11-10-1.6) (IC 36-4-8-7) and (IC 36-5-4-6).

CLERKS AND CLERK-TREASURERS-OFFICE SPACE

IC 36-4-10-2.5 (Cities) and IC 36-5-6-5.1 (Towns) require that if office space exists in a building owned or leased by a city or town, the city executive and city legislative body or town legislative body shall provide office space for the staff and records of the clerk or clerk-treasurer.

CLERKS AND CLERK-TREASURERS-ATTORNEYS AND LEGAL RESEARCH ASSISTANTS

IC 36-4-10-5.5 (Cities) and IC 36-5-6-8 (Towns) allows the clerk or clerk-treasurer to hire or contract with competent attorneys or legal research assistants on terms the clerk or clerk-treasurer considers appropriate. Appropriations for the salaries of attorneys and legal research assistants employed shall be approved in the annual budget.

PUBLIC PURCHASES - PUBLIC CONSTRUCTION LAWS

Public Law 82, Acts of 1995, raised the public purchases and public works bid thresholds from \$25,000 to \$75,000 for first and second class cities and from \$25,000 to \$50,000 for all cities and towns with a population of more than 5,000.

This law further requires at least three quotes to be obtained on all public purchases and all public works projects of at least \$25,000 and less than \$75,000 in all first and second class cities and on all public purchases and public works projects of at least \$25,000 and less than \$50,000 in third class cities and towns with a population of more than 5,000.

Cities and towns may perform any public work by means of its own workforce without taking bids whenever the cost of the public work is estimated to be less than \$100,000.

Public Law 309, Acts of 1995, allows for bids to be accepted by a city or town electronically on a fax machine or system with a security feature that protects the content of an electronic bid to the same extent the content of a bid that is not faxed is protected. The bid notice must indicate the procedures for transmitting the electronic bid.

This public law further provides for a city or town to specify in a public purchases contract that early performance will result in increased compensation or late performance after the termination date will result in a deduction from compensation in the contract at either a percentage of the contract amount or a specific dollar amount determined by the city or town. The notice of inclusion of such provisions must be included in the solicitation. (IC 36-1-9-18)

INVENTORIES OF FIXED ASSETS

Every city or town should have a complete inventory of all fixed assets owned which reflect their acquisition value. Such inventory should be recorded in the General Fixed Asset Account Group ledger, City and Town Form No. 211, segregated by departments of the city or town; i.e., fire department, police department, park department, street department, sanitation department, etc. Water, electric, gas, and sewage utilities are to be inventoried separately showing fixed assets belonging to each utility. A complete inventory should be taken at least once a year for good internal control and for verifying account balances carried in the accounting records.

Land

The records of each city and town should reflect land owned, its location, its acquisition date and the cost (purchase price). If the purchase price is not available, appraised value may be used.

Buildings

A fixed asset account for buildings should reflect the location of each building and the cost value (being the purchase or construction cost) and, if improvements are made to the building, the cost of such improvements would be included. If a building is acquired by gift, the account would reflect its appraised value at the time of acquisition.

Improvement Other Than Buildings

A fixed asset account should reflect the acquisition value of permanent improvements, other than buildings, which have been added to the land. Examples of such improvements are fences, retaining walls, sidewalks, gutters, tunnels and bridges. The improvements would be valued at the purchase or construction cost.

Equipment

Tangible property of a permanent nature, other than land, buildings and improvements, should be inventoried. Examples including machinery, trucks, cars, furniture, typewriters, adding machines, calculators, bookkeeping machines, data processing equipment, desks, safes, cabinets, etc. The value of such items should be carried in the inventory at the purchase cost. Each city or town should establish a capitalization policy that sets a dollar amount as a threshold to be used in determining which equipment items will be recorded.

Construction Work In Progress

Where construction work has not been completed in the current calendar year, the cost of the project should be carried as "construction work in progress." When the project is completed, it will be placed on the inventory applicable to the assigned asset accounts.